

CHAPTER 23 MOTOR VEHICLE SERVICE CONTRACTS

191—23.1(516E) Purpose. This chapter is promulgated to implement and administer the provisions of Iowa Code chapter 516E, hereinafter referred to as the Act, which regulates the sale of motor vehicle service contracts.

191—23.2(516E) Applicability and scope. This chapter shall apply to all providers of motor vehicle service contracts issued, sold, or offered for sale in this state, such as automobile dealers who offer and sell motor vehicle service contracts and any third party administrators. This chapter also applies to all motor vehicle service contract reimbursement insurance policies issued by an insurer authorized to do business in this state.

191—23.3(516E) Application of insurance laws. The sale of a motor vehicle service contract shall not be deemed to include the sale of insurance. Thus, unless the provider is otherwise engaged in the sale of insurance, the provisions of the insurance laws of this state shall not be applicable to that provider. However, this rule shall not be construed to exempt any other warranties or service contracts other than motor vehicle service contracts, as defined in the Act, from the provisions of the insurance laws of this state.

191—23.4(516E) Administration.

23.4(1) The deputy administrator appointed under Iowa Code section 502.601 shall administer the Act. The superintendent of securities shall be the principal operations officer responsible to the commissioner for the routine administration of the Act and management of the administrative staff of the securities bureau.

23.4(2) In the absence of the commissioner, whether because of vacancy in the office, by reason of absence, physical disability, or other cause, the superintendent of securities shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the commissioner. The commissioner may from time to time delegate to the superintendent of securities any or all of the functions assigned to the commissioner in the Act.

23.4(3) The superintendent of securities shall employ officers, attorneys, accountants, auditors, investigators, and other employees as shall be needed for the administration of the Act.

23.4(4) Upon request the commissioner may honor requests from interested persons for interpretative opinions.

191—23.5(516E) Public access to hearings. Every hearing in an administrative proceeding shall be open to the public unless by prior agreement all parties request that it be private.

191—23.6(516E) Public access to records.

23.6(1) The administrator shall keep a register of all filings and orders which have been entered. The register shall be open for public inspection.

23.6(2) Upon request and for a reasonable fee, the administrator shall furnish to any person copies of any register entry or any document which is a matter of public record and not confidential. Copies shall be available during normal business hours and may be certified upon request. In any administrative, civil, or criminal proceedings, a certified copy is prima facie evidence of the contents of the document certified.

23.6(3) Pursuant to Iowa Code chapter 22, the administrator and the attorney general may keep confidential information obtained during an investigation or audit.

191—23.7(516E) Filing procedures.

23.7(1) *Prepaid envelope.* The administrator may date-stamp and return material upon request if the filing is accompanied by a self-addressed envelope large enough to return the date-stamped material and with sufficient prepaid postage.

23.7(2) *Annual filing—late filing fee.* If the annual filing required by Iowa Code section 516E.3 is not filed or postmarked by the first day of August, the filing fee shall be accompanied by a late fee of \$25. If the annual filing is not filed or postmarked by the first day of September, the filing shall be accompanied by a late fee of \$50.

191—23.8(516E) Fees. The following fees are established by the commissioner:

1. Annual filing fee	\$100.00
2. Certification	\$ 5.00
3. Filing fee (filed or postmarked after August 1)	\$125.00
4. Filing fee (filed or postmarked after September 1)	\$150.00
5. Filing fee (filed or postmarked after August 1 and sales occurred)	\$325.00
6. Filing fee (filed or postmarked after September 1 and sales occurred)	\$350.00
7. Name change	\$ 10.00
8. Record copies (per page)	\$ 0.50
9. Printout of providers	\$ 10.00
10. Printout of insurance companies	\$ 10.00

All fees are nonrefundable.

191—23.9(516E) Forms. Copies of all required forms and instructions may be obtained from the Securities Bureau, 340 Maple Street, Des Moines, Iowa 50319-0066. The public shall use Form MV-1, Notice of Annual Filing, when dealing with the bureau, unless this requirement is waived by the administrator. Computer-generated information may be accepted upon request. Incomplete forms will not be processed and will be returned to the sender.

191—23.10(516E) Prohibited acts—unfair discrimination or trade practices. A motor vehicle service contract provider shall not cause or permit any unfair discrimination between individuals of the same class in the rates charged for any contract, in the benefits received thereunder, in any of the terms or conditions of such contract, or in any other manner.

191—23.11(516E) Prohibited acts—unfair or deceptive trade practices involving used or rebuilt parts.

23.11(1) *Used parts.* Unless the parts were rebuilt in accordance with 23.11(2), a motor vehicle service contract provider may not use used parts to repair a motor vehicle covered by a motor vehicle service contract without prior written authorization by the vehicle owner.

23.11(2) *Rebuilt parts.* A motor vehicle service contract provider may not use rebuilt parts to repair a motor vehicle covered by a motor vehicle service contract unless:

- a. The parts have been dismantled and reconstructed as necessary;
- b. All of the internal and external parts have been cleaned and made free from rust and corrosion;
- c. All impaired, defective, or substantially worn parts have been restored to a sound condition or replaced with new, rebuilt, or unimpaired used parts;
- d. All missing parts have been replaced with new, rebuilt, or unimpaired used parts;
- e. All necessary operations such as rewinding or machining have been performed; and
- f. The parts have been put in working condition, using, if publicly available, the manufacturer's performance specifications in existence when the parts were originally manufactured as minimum standards.

191—23.12(516E) Violations. Any violation of these rules shall be considered a violation of Iowa Code chapter 516E and shall be subject to the provisions of Iowa Code sections 516E.6, 516E.13, and 516E.15.

191—23.13(516E) Procedures for public complaints.

23.13(1) Any member of the public or any federal, state, or local official may make and file a complaint with the administrator. The administrator shall process each complaint made against any provider which alleges certain acts or practices which may constitute one or more violations of the Act or this chapter. Complaints received from sources outside the state of Iowa shall be processed in the same manner as those originating in Iowa.

23.13(2) Complaints may be mailed or delivered to the following address: Regulated Industries Unit, Securities Bureau, 340 Maple Street, Des Moines, Iowa 50319-0066.

23.13(3) All complaints shall be made in writing and shall fully identify the complainant by name and address. If required by the administrator, complaints shall be made on forms prescribed and provided by the administrator.

23.13(4) Oral or telephone communications may not be considered or processed as complaints. However, any member of the administrator's staff may make and file a complaint based upon information and belief in reliance upon oral, telephone, or written communications received by the administrator.

These rules are intended to implement Iowa Code chapter 516E.

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